

REMARKS

Before entry of this Amendment and Response, the status of the application according to the pending Office action is as follows:

- Claims 1-14 and 17-24 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- Claims 1-7, 11-14, and 18-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,765,773 to Hopkins (hereinafter “Hopkins”).

Applicant thanks Examiner Hurley for the time and courtesy he extended during a telephonic interview with the Applicant, the undersigned attorney, and Christopher W. Stamos, on December 11, 2009. The following discussion is intended to constitute a proper recollection of such interview in accordance with MPEP §713.04, and also to provide a full response to the Office action.

Applicant hereby amends claims 1, 4, 6, 11, 13, 18, 21, and 23 without prejudice, as shown in the preceding Listing of Claims. Support for these amendments can be found in the claims and specification as filed, and at least in paragraphs [0019]-[0020], [0064], and [0077] of the application as published. Applicant hereby adds new claims 26-29. Support for these claims can be found in the specification as filed, and at least in paragraphs [0074], [0111], and [0114] of the application as published. No new matter is added thereby.

Applicant respectfully requests reconsideration and withdrawal of all grounds of rejection and passage of claims 1-14, 17-24, and 26-29 to allowance in due course.

1. Claims 1-14 and 17-24 are rejected under 35 U.S.C. §112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More particularly, the Office action states, at page 2, that Applicant's various uses of the term substantially *"lacks a clear and precise definition and whose meaning is completely dependent on a person's subjective opinion. As such, one of ordinary skill in the art could not determine the metes and bounds of the claims."* Applicant respectfully disagrees. Without acquiescing to the rejection, Applicant hereby amends claims 1, 6, 13, 18, 21, and 23 to remove the objected-to language (i.e., the term *"substantially"*).

Applicant therefore requests reconsideration and withdrawal of the above rejection of claims 1-14 and 17-24 under 35 U.S.C. §112, second paragraph.

2. Claims 1-7, 11-14, and 18-24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hopkins. Applicant respectfully traverses this rejection as applied to the claims, as amended.

Briefly, Hopkins appears to disclose a vehicle (10) pulling a paint application and drying apparatus (20) with a flexible microwave absorbing shield (22), which extends in all four directions from an upper platform (21). Within the apparatus (20) there are four wheels, two front (23, 24) and two rear (25, 26), supported by a rigid frame (27). The frame (27) extends to the vicinity of the highway, but does not touch it, as does the flexible shield (22). The outer edges of the wheels (23-26) have recesses in which flexible treads (29, 29') are received. These treads (29, 29') have a thickness which is equivalent to or greater than the gap between the bottom edge of frame (27) and the highway. The wheels (23-26), treads (29, 29'), and rigid frame (27) together form an interior microwave cavity (30). Laterally directed microwaves are blocked in part by the wheels (23-26), and the side walls and end walls of the frame (27). Since this frame (27) does not touch the ground, there is a possible path for the escape of radiation.

However, this line-of-sight path is blocked by the treads (29, 29'), such that microwaves would have to travel a circuitous path over the treads (29, 29') and then down between the treads (29, 29') and wall (27). See Hopkins at col. 3, line 38 to col. 4, line 67. An alternative embodiment includes a miniaturized apparatus (60) that is fitted with a handle (61) for manually holding the apparatus against, and moving it along, a wall. See Hopkins at col. 6, lines 23-57.

As discussed in the prior Amendment and Response, filed with the USPTO on July 14, 2009, Applicant respectfully submits that Hopkins does not teach or suggest an apparatus including a seal for maintaining “a vacuum seal with the surface sufficient to adhere the apparatus to the surface.” and, in fact, does not include any seal “sufficient to adhere the apparatus to the surface.” Applicant hereby incorporates the arguments from the Amendment and Response of July 14, 2009, herein. Nonetheless, in order to advance prosecution of this case, as discussed in the telephonic interview of December 11, 2009, Applicant hereby amends independent claims 1, 21, and 23, to recite a drive for powering at least a portion of the seal.

More particularly, Applicant's amended independent claims 1 and 23 recite an apparatus including “a drive powering at least a portion of the seal to move the apparatus relative to the surface,” while amended independent claim 21 recites an apparatus including “a drive powering at least a portion of the locomoting seal to move the apparatus relative to the surface.” Applicant respectfully submits that Hopkins fails to teach or suggest such a structure, at least because Hopkins does not teach or suggest any means of powering at least a portion of a seal. Rather, the wheels (23-26) and treads (29, 29') of Hopkins are unpowered, with the drying apparatus (20) of FIG. 1 pulled by a separate vehicle (10), while the miniaturized drying apparatus (60) of FIG. 5 of Hopkins is moved manually by a user through a force applied to the handle (61).

Applicant therefore submits that Hopkins fails to teach multiple elements of amended independent claims 1, 21, and 23. Because claims 2-7, 11-14, 18-20, 22, and 24 depend, either directly or indirectly, from independent claims 1, 21, or 23 respectively, and include all of the limitations thereof, Applicant respectfully submits these claims are allowable as well.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-7, 11-14, and 18-24 as being unpatentable over Hopkins.

3. With this Amendment and Response, Applicant hereby adds new claims 26-29. Claims 26-28 depend, either directly or indirectly, from amended independent claim 1 and are patentable for at least the reasons discussed hereinabove with respect to claim 1, as amended. Accordingly, Applicant respectfully requests allowance of new claims 26-29 in due course.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration, withdrawal of all grounds of rejection, reintroduction of withdrawn claim 8-10 and 17, and allowance of claims 1-14, 17-24, and 26-29 in due course.

The Examiner is invited to contact Applicant's undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Respectfully submitted,

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